



Written by [Joe Wolverton, II, J.D.](#) on April 18, 2014

## Arizona Governor Signs Pro-gun Bill; Three Others Await Action

On Wednesday, Governor Jan Brewer (shown) of Arizona signed a bill prohibiting cities and towns from outlawing shooting on private property.

Specifically, House Bill 2483 mandates that so long as the nearest occupied permanent structure is more than a quarter mile away, "the otherwise lawful discharge of a firearm or air gun or the use of archery equipment may not be enjoined except by an action maintained by the attorney general to abate a public nuisance."



Brewer signed the bill just hours after having received it from the state senate that passed it by a narrow 16-13 margin. The bill squeaked through the state House of Representatives on March 17 by a vote of 32-24.

State Representative John Kavanaugh, according to a report from local Arizona media, says, "The bill was prompted by Yavapai County's effort to restrict shooting on a property owned by a rural Prescott man."

The *Daily-Courier* (Prescott, Arizona) reports, "Brad DeSaye is the person Kavanaugh was referring to, and he's been in a dispute with Yavapai County officials and neighbors."

It continues the story:

Yavapai County Development Services Director Steve Mauk said DeSaye was operating a gun range on ag property, so it was a zoning ordinance violation.

However, county compliance hearing officer Peter Van Haren ruled in DeSaye's favor.

Aerial photos of DeSaye's 380-acre property show what appears to be large berms. County officials and neighbors say they were built for a shooting range, but DeSaye says they were built for future irrigation pipes.

About 50 people signed a petition complaining about noise and potential danger from shooting on DeSaye's property.

DeSaye said the nearest home is a mile from the area where he shoots, and it's likely the complainants are hearing shooting from other locations including the national forest.

He added that he doesn't shoot especially loud guns such as those that use 50 caliber or 20 mm bullets. He owns a Prescott gun sales store.

"I try to be respectful to my neighbors," he said.

Opponents of the new law argue that it was not a matter of restricting the right to keep and bear arms, but a matter of enforcing zoning laws designed to keep the noise and danger of gunfire away from homes.



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The National Rifle Association (NRA) didn't see it that way, however, reportedly encouraging members and supporters to register their opinions online.

Under the Constitution, states retain police power, of which zoning power is an acceptable exercise.

No level of government, however, federal, state, or local, is possessed of the power to take away rights from individuals, including the right to keep and bear arms. If, therefore, the Arizona statute repairs damages to that right, then the governor and the legislature are to be commended for their efforts to restore this most precious right to the citizens of Arizona.

Three other gun-related bills are awaiting action by Governor Brewer.

As reported by the Associated Press:

House Bill 2339 would allow gun owners with concealed-carry permits to bring weapons into government buildings unless security measures — including armed guards, metal detectors and gun lockers — are in place. The measure, by Rep. Brenda Barton, R-Payson, excludes public K-12 schools, community colleges and universities. Gov. Jan Brewer vetoed a similar bill last year. The Senate approved the bill 16-12.

House Bill 2517, sponsored by Rep. Steve Smith, R-Maricopa, would impose fines on cities, towns and their lawmakers who enforce gun ordinances more strictly than the state's own laws. The bill would impose a civil penalty of up to \$5,000 on city and town governments that violate the statute. It would also allow the state to sue individual government officials, such as city councilors, and would prohibit them from using public funds to defend themselves in court. The Senate passed it with a 17-12 vote and it also awaits the governor's action.

House Bill 2338 would allow authorities to charge a person who's accused of wresting a gun away from someone else with aggravated assault.

This last bill was approved by the state House of Representatives by a vote of 40-17.

Section 1-A-9(d) of the bill adds one paragraph to existing law that makes it an aggravated assault if a person commits an assault under several statutory situations including if the alleged assailant knowingly takes or attempts to exercise control over a lawfully owned firearm with the intent to cause harm.

The Arizona Citizens Defense League and the Gun Owners of Arizona were among the pro-Second Amendment groups working to ensure passage of HB 2338.

Another gun rights organization, the Capitalism Institute, praised Arizona lawmakers for taking steps to slow the drift toward civilian disarmament:

It is good to see states like Arizona seeking to protect and expand the rights of law-abiding gun owners. While some of the more progressive liberal states like Connecticut, Maryland, New Jersey and New York are clamping down and becoming ever more restrictive with gun control laws, other states are going in the reverse direction, towards more freedom and liberty.

Although Americans have watched as this right has been redefined by Congress, the courts, and the president, the plain language of the Second Amendment explicitly forbids any infringement on this right that protects all others.

Our Founders recognized that this right was essential in thwarting any future attempts by an out-of-control, all-powerful central authority disarming the American people as a step toward tyranny. Take,



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for example, these statements from the Founding Era regarding the purpose of the passage of this amendment:

In commenting on the Constitution in 1833, Joseph Story wrote:

The right of the citizens to keep and bear arms has justly been considered, as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them.

In his own commentary on the works of the influential jurist Blackstone, Founding-era legal scholar St. George Tucker wrote:

This may be considered as the true palladium of liberty.... The right of self defence is the first law of nature: in most governments it has been the study of rulers to confine this right within the narrowest limits possible. Wherever standing armies are kept up, and the right of the people to keep and bear arms is, under any colour or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.

Writing in *The Federalist*, Alexander Hamilton explained:

If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government, and which against the usurpations of the national rulers, may be exerted with infinitely better prospect of success than against those of the rulers of an individual state.

Gun grabbers in the federal government and in state legislatures continue pushing various federal and international programs aimed at confiscating weapons from civilians and consolidating all control over firearms and ammunition in the hands of government.

Citizens jealous of their liberty should make sure they contact their representatives and let them know they will hold them accountable for their votes, particularly those directly impacting their ability to enjoy the constitutionally protected right to keep and bear arms.

Although the bills recently passed by the Arizona state legislature and awaiting action by Governor Brewer are not perfect and do not restore the full roster of rights to citizens of the Grand Canyon State, they do move the ball forward toward the goal of the completely unrestricted right to keep and bear arms.

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